

THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

SEAN M. FRYER,

Plaintiff,

v.

MICHELLE OLSHEFSKI, et al.,

Defendants.

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3:19-CV-00092  
(JUDGE MARIANI)

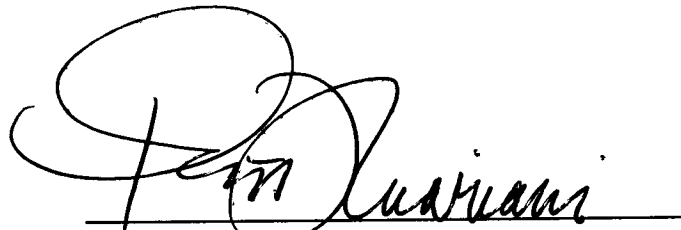
ORDER

AND NOW, THIS 6<sup>th</sup> DAY OF SEPTEMBER, 2019, upon review of Chief Magistrate Judge Schwab's Report and Recommendation ("R&R") (Doc. 13) for clear error or manifest injustice, **IT IS HEREBY ORDERED THAT:**

1. The R&R (Doc. 13) is **ADOPTED AS MODIFIED:**
  - a. The claims against defendant Michelle Olshefski are **DISMISSED WITH PREJUDICE** for the reasons set forth in the R&R.
  - b. The claims against Defendant Sergeant Hebron are **DISMISSED WITHOUT PREJUDICE**. Although the Court agrees with Chief Magistrate Judge Schwab that the Amended Complaint is devoid of any allegations as to Defendant Hebron, or his personal involvement in any of the alleged wrongful conduct set forth by Plaintiff, a liberal construction of Plaintiff's Amended Complaint reveals that Plaintiff may be able to amend his Complaint to include allegations of personal involvement by Sergeant Hebron in the alleged unlawful conduct. Thus, amendment as to this Defendant would not be futile. Although Plaintiff has already been afforded one opportunity to

amend his Complaint, in the interest of affording Plaintiff every reasonable opportunity, he shall be permitted one final chance to file a Complaint properly stating a claim upon which relief can be granted as to Defendant Hebron.

2. Plaintiff may file a Second Amended Complaint within **21 days** of the date of this Order setting forth claims against Sergeant Hebron and Dr. Malik. Should Plaintiff fail to timely file a Second Amended Complaint, this action will proceed only against Dr. Malik.
3. The case is **REMANDED** to Chief Magistrate Judge Schwab for further proceedings consistent with this Order.



Robert D. Mariani  
United States District Judge